

TESTIMONY BEFORE THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE

STATE SENATOR ALLEN G. KUKOVICH
PENNSYLVANIA STATE SENATE
MAY 1, 1997

I would like to thank the Chairman and all the members of the House Subcommittees on Health and Environment and Oversight and Investigations for inviting me to testify today. I understand you have already evaluated the Clean Air Scientific Advisory Committee's report and the Environmental Protection Agency's (EPA) regulatory impact analysis. Today's hearing is for state and local officials. Next week you plan to review health effects. I have been asked to discuss the EPA's proposed revisions to the National Ambient Air Quality Standards for Ozone and Particulate Matter.

I have always supported reasonable attempts to reduce pollution. Pennsylvania has an obligation to act in good faith concerning the Clean Air Act amendments of 1990 and to comply with the mission of the EPA. However, it will be the ultimate responsibility of state governments to implement unpopular restrictions. State legislators will have to convince our constituents that these restrictions are both necessary and will produce the desired results. Legislators like myself, with strong environmental concerns, are forced to deal with the anti-environmental backlash if we cannot demonstrate and justify a common sense approach to air quality problems.

To accurately reflect the impact of new standards on my constituents, we need to take a brief look back in time. Next month, Pennsylvania will pay the third of four installment payments on a \$145 million settlement as a result of trying to comply with federal clean air standards. In November, 1993, the Commonwealth entered into a contract with Envirotech to operate a statewide centralized-only automobile emissions testing program. The Administration and General Assembly believed at that time there was no other choice. Several other states entered into similar agreements. The EPA sent a series of mixed signals to states who were making an effort to comply with the amended Clean Air Act.

Our Envirotech program was scheduled to begin on January 1, 1995. Responding to a ground swell of public opposition, the General Assembly first delayed, then canceled the centralized-only proposal. Faced with the threat of a \$350 million lawsuit, Pennsylvania agreed to pay Envirotech \$145 million. During my 19 years as a State Representative and in my first year as a State Senator, I have a clear, consistent pro-environment voting record. I opposed the centralized-only program, However. In Pennsylvania, the EPA and Envirotech were perceived to be heavy handed and threatening. The public was misled and deceived. It was a costly learning experience. Pennsylvania received nothing, clean air wise, for our \$145 million investment.

That brings us up to date. We are again looking at the EPA's proposed revisions to the regulations. It is difficult for me and other state legislators to convince our constituents that they must tighten their environmental belts because air quality in Pennsylvania has been gradually improving since 1982. Last year, 1996, for the first time in the 27 years it has been monitoring air quality, Allegheny County met national standards in every category. Every category - ozone, airborne particles, sulfur dioxide, carbon monoxide and nitrogen dioxide were all within the acceptable range.

More strict federal emission regulations will create economic disadvantages for Pennsylvania. Congressman Klink, a member of this committee, has stated, "Businesses will look elsewhere and we will end up losing even more jobs." Manufacturers in southwest Pennsylvania must obtain costly emission reduction credits to locate or expand. Existing businesses must install costly emission controls that would not be required in bordering states. My constituents and businesses in my district are in an air quality quandary. More stringent EPA regulations could actually make our air quality worse. If companies are forced to move across the border to operate under less severe emission standards, they will still be upwind of Pittsburgh and will contribute to higher pollution in Southwest Pennsylvania.

The Southwestern Pennsylvania Growth Alliance, a consortium of western Pennsylvania businesses stated, "The Growth Alliance supports efforts to maintain and improve air quality, but we feel strongly that changes in air quality standards must be based on sound science, that the feasibility of achieving the revised standards must be assessed prior to promulgation of such standards, that standards should take into account the uncontrollable effects of weather, and that the impacts of revised standards on economic development in specific geographic areas must be considered before the standards are enforced. We have found that the scientific evidence supporting the changes in the standards is inadequate; that the revised standards may be impossible to achieve in southwestern Pennsylvania regardless of what emission controls are imposed in the region; that the revised standards fail to adequately adjust for unusual meteorological conditions; and that implementation of the revised standards within the current regulatory structure could have a devastating impact on economic development in southwestern Pennsylvania.

As long as Pennsylvania is in the Ozone Transport Commission, we are subject to pollution controls that are not imposed on Ohio, West Virginia and other upwind, non-OTC states. One of the most significant issues facing me, my constituents and economic development in my region is a clear federal policy for pollution from other states. Research conducted by the Ozone Transport Assessment Group shows as many as 27 other states contribute to air pollution problems in Pennsylvania. While Pennsylvania faces more stringent standards, areas such as Chicago and Cleveland last year received EPA exemptions from further controls on nitrogen oxide, a key ingredient in ozone pollution.

Bluntly put, the EPA proposals are shortsighted, fall short in achieving their stated objectives and are unfair to the motorists and businesses that have to deal with their implementation. Even if upwind states have to make reductions pursuant to the proposed regulations, it is unlikely that will prevent violations in Pennsylvania of nitrogen oxide emissions with a lower standard imposed. Thus there is no assurance we will receive cleaner air from other states. The state is still in the dark on what procedures EPA will use to implement new standards.

Despite Pennsylvania's efforts to clean up our air (we have already reduced nitrogen oxide emissions from larger sources by 44%) and our commitment to increase those reductions through a year long effort by the Southwestern Pennsylvania Ozone Stakeholder Working Group (see addendum), changing the standards discourages our ability to build unanimity within the state. There continue to be serious questions about the scientific data used by EPA. Senator John Chafee has requested a 5-year delay in implementation. I support this proposal. At least it would give us a greater chance to ascertain the validity of the data currently being used.

I would like to mention one other item before closing. Pennsylvania recently passed an electric deregulation proposal. In general, I favor the concept of competition. In particular, I actively support any legislation that directly benefits consumers. There are some side effects of the new deregulation law. Burning fossil fuel to make electric production cheaper will make air pollution worse. It would be more than ironic if the EPA finally settles on viable standards; if Pennsylvania implements and maintains programs that keep us in compliance; and then the

whole equation is knocked out of balance as a result of electric deregulation.

Pennsylvania hails itself as being one of the first states to enact electric deregulation. We are now looking at gas deregulation. But in our haste to be in the national forefront on this issue, we may have failed to assess the long range implications, specifically the negative implications on our gradually improving air quality. As mentioned earlier, tougher regulations pose serious threats to Southwest Pennsylvania's efforts towards economic development.

I am gratified to see this panel and other congressional committees conducting hearings on clean air. I believe we can achieve a balance between our environment and economic development. Pennsylvania has been committed to this balance. And we are committed to doing more. But we are running out of control measures to substantially reduce ozone-causing emissions. EPA's proposal creates uncertainty over how to implement new standards. And we still don't have adequate scientific evidence of the health impact of these changes. To quote Governor Tom Ridge of Pennsylvania, "Your agency can eliminate much of this uncertainty and frustration by effectively dealing with concerns we have raised about pollution coming into Pennsylvania from other states, equity among states, developing common sense implementation procedures for all to see in advance and by reviewing more carefully the scientific basis for the new proposed standards."

Thank you for this opportunity to testify. I will be happy to answer any questions.